D.B. CIVIL WRIT PETITION NO.4293/1997
(Ashish Kumar Mehta Vs. UOI & Ors.)

Date of order : 11.8.2006

HON'BLE MR. JUSTICE RAJESH BALIA
HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr. Anjay Kothari, for the petitioner.
Mr. K.K. Bissa, for respondents.

The petition was filed inter alia on the ground that provisions of Section 158 BD of the Income Tax Act are ultra vires. During the pendency of the writ petition, the petitioner had proceeded with the alternative remedy. By order dated 19.5.2006, the Tribunal has decided the assessee's appeal by which he has got substantial relief. In this view of the matter, learned counsel for the petitioner requests that subject to right to seek statutory remedy in respect of the order of Tribunal Dated 19.5.2006, this petition may be dismissed as not pressed. He further requests that until he avails the statutory remedy before the Tribunal, the ad-interim order in respect of recovery of demand passed by this Court may be continued.

In the facts and circumstances of the case, the petition stands dismissed subject to liberty to the petitioner to avail statutory remedy as may be available in respect of the order dated 19.5.2006

passed by ITAT, Jodhpur Bench. The balance of the demand outstanding against the petitioner after getting relief on account of the appeal effect may not be recovered from the petitioner until after expiry of one month from the date the time for filing the appeal under Section 260-A of the Act expires. Thereafter, the matter shall be subject to the order passed under remedial measures, if any pursued by the assessee.

(GOPAL KRISHAN VYAS), J. (RAJESH BALIA), J.

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